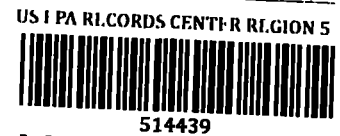


UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION



UNITED STATES OF AMERICA,

Plaintiff,

and

STATE OF MINNESOTA, by its
Attorney General Hubert H. Humphrey, III,
its Department of Health, and its
Pollution Control Agency,

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION;
HOUSING AND REDEVELOPMENT AUTHORITY
OF ST. LOUIS PARK; OAK PARK VILLAGE
ASSOCIATES; RUSTIC OAKS CONDOMINIUM
INC.; and PHILIP'S INVESTMENT CO.,

Defendants.

and

CITY OF ST. LOUIS PARK,

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION,

Defendant.

and

CITY OF HOPKINS,

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION,

Defendant.

Civil No. 4-80-469

AFFIDAVIT OF
ROBERT G. CRISWELL

1. I received a B.S. in Chemical Engineering from Pennsylvania State University in 1970.

3. During late 1974 and early 1975, I was also employed by the Minnesota Pollution Control Agency as a staff engineer in the Division of Water Quality, Permits Section. My general responsibilities at that time included review of applications for National Pollutant Discharge Elimination System (NPDES) and State Disposal System (SDS) permits for industrial wastewater treatment facilities.

4. In the course of this work, I was assigned to work on the permit for a discharge proposed by the City of St. Louis Park in an application submitted to the Minnesota Pollution Control Agency on or about October 10, 1974. According to the application, the effluent was to consist of a treated stormwater

discharge (i.e., treated surface water runoff from soils contaminated as a result of past creosoting and related industrial operations). During the permit review process, I learned that these creosoting and related operations had been performed at the property known as the Republic Creosoting Company, located at 7200 Walker Street, St. Louis Park, Minnesota.

5. I prepared a draft permit which was included with the Public Notice described below on January 30, 1975. The paragraph on page 2 of the draft permit headed "Description" correctly describes the discharge system intended to be covered by the permit. A copy of the draft permit is attached as Exhibit 1 hereto.

6. Pursuant to resolution of the Board of the Minnesota Pollution Control Agency (hereinafter "Agency Board"), a public hearing on the proposed permit was scheduled for St. Louis Park on February 27, 1975. Prior to the hearing a Public Notice for the proposed permit was issued on January 30, 1975. I wrote the Public Notice and the accompanying Fact Sheet, copies of which are attached as Exhibits 2 and 3 hereto.

7. The discharge point proposed for the stormwater discharge is shown on a map reproduced on page 2 of the Public Notice and on page 4 of the Fact Sheet. The discharge was to flow to Minnehaha Creek at a point designated by the words "Location of

Discharge" on the aforementioned map. Throughout the permitting process, my understanding was that the permit only was intended to cover discharges to the receiving waters of the Minnehaha Creek.

8. A hearing was held on February 27, 1975 before Hearing Officer C. A. Johannes. Mr. Johannes issued "Findings of Fact, Conclusions and Recommendations" on March 7, 1975, a copy of which is attached as Exhibit 4 hereto.

9. The Agency Board considered the matter at its meeting on March 18, 1975. Amendments were offered to the recommendations of the Hearing Officer. With modifications, the Board approved issuance of a permit and authorized the Agency staff to prepare the final permit.

10. The approved permit authorized was issued on April 11, 1975, and a copy is attached as Exhibit 5 hereto. The final permit, at page 1, states that the discharge was to be to Minnehaha Creek and, as is evident from the piping system shown on page 4 of the final permit, the point of discharge was unchanged from that shown in the Public Notice and Fact Sheet.

9. The final permit did not authorize any discharge other than the discharge of treated stormwater to Minnehaha Creek, as noted above. In regard to ground water, the permit stated, at page 6, the following:

3. This permit is neither a commitment to/or an approval of any subsequent development of this site and is without prejudice to the position of any party on the

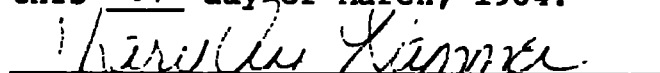
matter of responsibility for the cost of what ever ultimate work needs to be done to rehabilitate or eliminate any pollution associated to the soils and its ground waters.

4. The Permittee shall be responsible for the future removal or alteration of the storm sewer system as might be necessary as part of what ever work is needed to rehabilitate the underlying soil and its associated soils and ground waters.

Further affiant sayeth not.


Robert G. Criswell

Subscribed and sworn to before me
this 2 day of March, 1984.


(Notary Public)

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
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XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Permit No: MN 0045489

Application No: MN 0045489

PROPOSED
SUBJECT TO REVISION

JAN 30 1975

PCA EXH 2
2-27-75
J.T.K.

**AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM AND STATE DISPOSAL SYSTEM PERMIT PROGRAM**

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq; hereinafter the "Act"), Minnesota Statutes Chapters 115 and 116 as amended and Minnesota Pollution Control Agency Regulation MPC 36 (hereinafter Agency Regulation MPC 36)

CITY OF ST. LOUIS PARK

is authorized by the Minnesota Pollution Control Agency, to discharge from City Development Project including land farming and storm sewer projects located as shown on Pages 3 and 4 of 16.

to receiving water named the Minnehaha Creek.

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I and II, hereof.

The permit shall become effective on the date of issuance by the Director pending final approval by the Agency. The Permittee shall be notified of the final decision of the Agency regarding this permit.

This permit and the authorization to discharge shall expire at midnight, December 31, 1979. The Permittee is not authorized to discharge after the above date of expiration. In order to receive authorization to discharge beyond the above date of expiration, the Permittee shall submit such information and forms as are required by the Agency no later than 180 days prior to the above date of expiration pursuant to Agency Regulation MPC 36.

Date

Grant J. Merritt, Executive Director
Minnesota Pollution Control Agency

EXHIBIT 1

9500198

P1272-1

DESCRIPTION

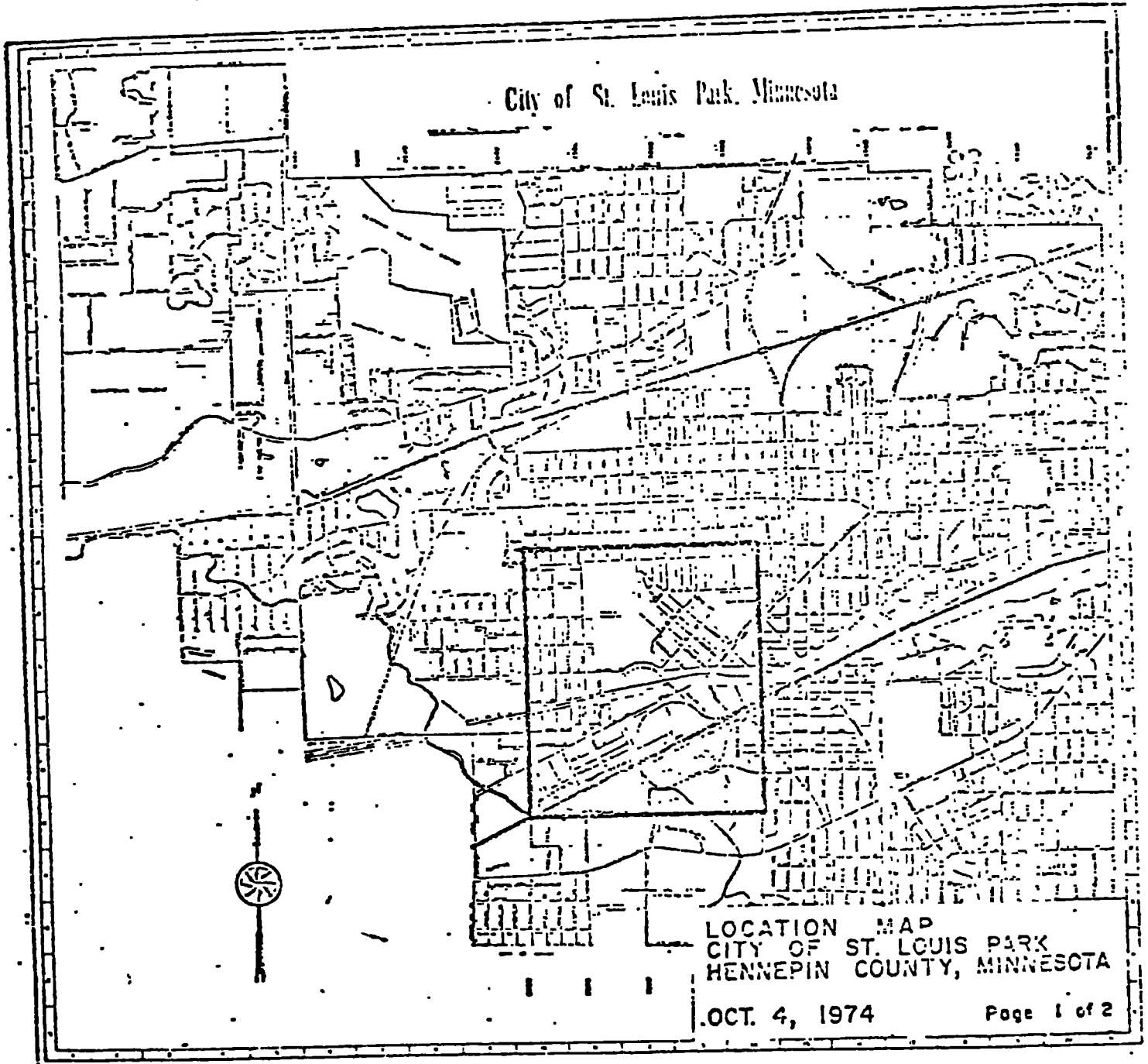
The present proposed plans and specifications indicate that the discharge will flow from a disposal system consisting of pumps, pipes, appurtenances, storm sewer runoff collection system, two surface runoff holding lagoons sealed with a polyethylene liner, land farming facility for biological degradation of soils and a sulfur dioxide dechlorination system. The disposal system shall be designed to treat all wastewater pollutants resulting from the runoff collection system land farming operations and any other source that is identifiable to the discharge. The treated effluent will be discharged from the disposal system at an approximate rate of 173,900 gallons per day based on the average annual rainfall.

The principal activity at this facility is the treatment of contaminated surface soils and their associated surface water runoff. Contamination of the soils was largely a resultant of past creosoting and related industrial operations.

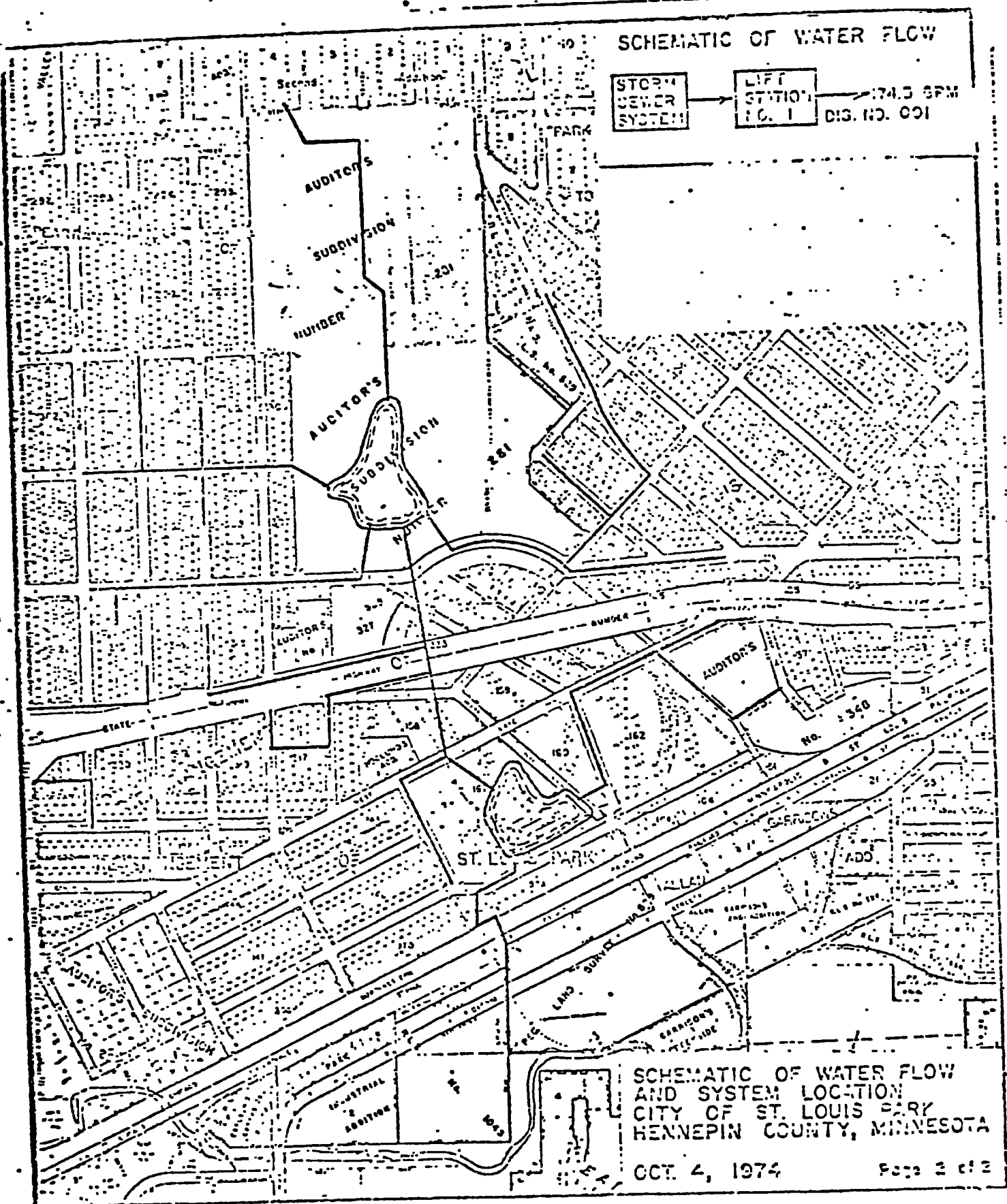
The storm sewer collection system is part of a development program, that the City of St. Louis Park is undertaking.

9500199

P1272-2



9500200



9500201

P127.2-4/...

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

*1. During the period beginning on the effective date of this permit and lasting until December 31, 1979, the Permittee is authorized to discharge from outfall serial number 001.

Such discharges shall be limited and monitored by the Permittee as specified below:

EFFLUENT CHARACTERISTIC	DISCHARGE LIMITATIONS				MONITORING REQUIREMENTS	
	kg/day Daily Avg	(lbs/day) Daily Max	Other Units Variable	(Specify) Daily Max	Measurement Frequency	Sample Type
Flow in Minnehaha Creek (upstream of discharge) -	-	-	-	-	Continuous	Daily
Flow-M ³ /Day (MGD)	-	-	-	-	Continuous	Daily Total Flow
Oil and Grease	-	-	0.5xmg/l	15mg/l	Daily	Grab
Phenols	-	-	.01xmg/l	0.1mg/l	Daily	Grab
Quinone	-	-	0.04mg/l	0.4mg/l	Daily	Grab
Total Chlorine Residual	-	-	0.01xmg/l	0.2mg/l	Daily	Grab
Zinc	-	-	.12xmg/l	1.0mg/l	Weekly	Grab
Cadmium	-	-	.03xmg/l	0.2mg/l	Weekly	Grab
Copper	-	-	.01xmg/l	0.5mg/l	Weekly	Grab
Nickel	-	-	.52xmg/l	2.0mg/l	Weekly	Grab
Lead	-	-	0.03xmg/l	1.0mg/l	Weekly	Grab
Ammonia (as N)	-	-	1.0xmg/l	2.0mg/l	Weekly	Grab
Benzo- α -pyrene	-	-	-	0.01 μ g/l	Monthly	Grab
Chrysene	-	-	-	0.01 μ g/l	Monthly	Grab

The pH shall not be less than 6.5 nor greater than 8.5 and shall be monitored by daily grab sample.

These upper and lower limitations are not subject to averaging and shall be met at all times.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The discharge shall not contain oil or other substances in amounts sufficient to create a visible color film on the surface of the receiving waters.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location; at a point representative of the discharge to the Minnehaha Creek.

*See Other Requirements Part I, B.5. for computation of x value. The daily maximum shall be applicable as the maximum effluent concentration except when the variable daily maximum is more stringent.

9500202

PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

2. During the period beginning on the effective date of this permit and lasting until December 31, 1979 the Permittee is authorized to discharge from outfall serial number 001.

Such discharges shall be limited and monitored by the Permittee as specified below:

<u>EFFLUENT CHARACTERISTIC</u>	<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
	kg/day (lbs/day)		Other Units(Specify)		Measurement	Sample
	<u>Monthly Avg</u>	<u>Daily Max</u>	<u>Monthly Avg</u>	<u>Daily Max</u>	<u>Frequency</u>	<u>Type</u>
Oil and Grease	-	-	10mg/l	-	Daily	Grab

9500203

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The discharge shall not contain oil or other substances in amounts sufficient to create a visible color film on the surface of the receiving waters.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location:
at a point representative of the discharge to the Minnehaha Creek.

PART I

Page 7 of 16

Permit No: MN 0045489

B. OTHER REQUIREMENTS

1. Pretreatment

No pollutant shall be discharged from this facility to a publicly owned treatment works except in accordance with pretreatment standards established in accordance with the Act or Minnesota Statutes or any such local standards or requirements. No pollutant shall be discharged into any publicly owned disposal system which interferes with, passes through inadequately treated or otherwise is incompatible with such disposal system. The Permittee shall not make modifications to divert any discharge of pollutants authorized by this permit to a publicly owned treatment works without having first notified and received the approval of the Director.

2. The Permittee shall be responsible to provide treatment for all surface runoff water passing through the storm sewer system to bring the runoff water to the required standards. Plans for the treatment system shall be submitted to the Agency and are subject to its approval prior to commencement of the discharge.
3. This permit is neither a commitment to/or an approval of any subsequent development of this site and is without prejudice to the position of any party on the matter of responsibility for the cost of whatever ultimate work needs to be done to rehabilitate or eliminate any pollution associated to the soils and its ground waters.
4. The Permittee shall be responsible for the future removal or alteration of the storm sewer system as might be necessary as part of what ever work is needed to rehabilitate the underlying soil and its associated soils and ground waters.

5. Dilution Ratio, X

$$X = [(0.25)(\text{flow in Minnehaha Creek}) + (\text{effluent flowrate})] / [\text{effluent flowrate}]$$

The flow rate utilized for calculation of the dilution ratio shall be the daily total effluent flow rate and the daily total flow rate for Minnehaha Creek.

9500204

P1272-7

C. MONITORING AND REPORTING**1. Representative Sampling**

Samples shall be taken at a point representative of the discharge. Any monitoring measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

2. Monitoring Plan

The Permittee shall submit a monitoring plan to the Director within forty five (45) days after date of issuance of this permit for approval and thereafter submit a written report to the Director each month in compliance with such plan. The monitoring plan shall include the items described in Agency Regulation WPC 36(n)(2).

3. Reporting

Monitoring results obtained during the previous month shall be summarized and reported on the designated "Discharge Monitoring Report Form", and received or postmarked no later than the 21st day of the month following the completed reporting period. The first report is due on April 21, 1975. Signed copies of these, and all other reports required herein, shall be submitted to the Director at the following address:

Director
Minnesota Pollution Control Agency
1935 West County Road 82
Roseville, Minnesota 55113
Attn: Compliance and Enforcement Section

4. Reduction or Elimination of Monitoring Requirements

If the Permittee after monitoring for at least six (6) months determines that he is consistently meeting the effluent limits contained herein, the Permittee may request of the Director that the monitoring requirements be reduced or eliminated. The determination shall be binding upon the Permittee.

5. Monitoring Report

The Permittee shall report the results of the monitoring requirements in the units specified in this permit. A report or written statement is to be submitted even if no discharge occurred during the reporting period. The monthly report shall include (a) a description of any modifications in the waste collection, treatment and disposal facilities; (b) any changes in operational procedures; (c) any other significant activities which alter the nature or frequency of the discharge; (d) any other material factors regarding the conditions of this permit and such information as the Minnesota Pollution Control Agency or Director may reasonably require of the Permittee, pursuant to Minnesota Statutes Chapters 115 and 116 as amended and Agency Regulation WPC 36(n).

9500205

P1272-8

6. Definitions

a. "Monthly Average" Discharge

1. Weight Basis - The "monthly average" discharge means the total discharge by weight during a calendar month divided by the number of days in the month that the facility was operating. Where less than daily sampling is required by this permit, the monthly average discharge shall be determined by the summation of the measured daily discharges by weight divided by the number of days during the calendar month when the measurements were made.
2. Concentration Basis - The "monthly average" concentration means the arithmetic average (weighted by flow value) of all the daily determinations of concentration made during a calendar month. Daily determinations of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily determination of concentration shall be the arithmetic average (weighted by flow value) of all the samples collected during the calendar day.

b. "Variable Daily Maximum" Discharge

1. Weight Basis - The "variable daily maximum" discharge means the total discharge by weight during a calendar day, based on the calculation of the Dilution Ratio, X.
2. Concentration Basis - The "variable daily maximum" concentration means maximum daily concentration, based on the calculation of the Dilution Ratio, X.

c. "Daily Maximum" Discharge

1. Weight Basis - The "daily maximum" discharge means the total discharge by weight during any calendar day.
2. Concentration Basis - The "daily maximum" concentration means the daily determination of concentration for any calendar day.

d. The "Agency" means the Minnesota Pollution Control Agency, as constituted pursuant to Minnesota Statutes, Section 116.02, Subd. 1.

e. The "Director" means the Executive Director of the Minnesota Pollution Control Agency as described in Minnesota Statutes, Section 116.03 as amended.

f. The "Regional Administrator" means the EPA Regional Administrator for the region in which Minnesota is located (now Region V).

g. The "Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq.

h. A "Composite" sample, for monitoring requirements, shall be defined as no less than a series of grab samples collected at equally spaced hourly intervals and proportioned according to flow.

i. Pollutants, Toxic Pollutants, Other Wastes, Point Source, Disposal System, Waters of the State and other terms for the purpose of this permit are defined in Section 502 of the Act and Minnesota Statutes Section 115.01 as amended and Agency Regulation WPC 36 (b).

7. Test Procedures

Test procedures for the analysis of pollutants shall conform to regulations promulgated pursuant to Section 304(q) of the Act, and Minnesota Statutes, Section 115.03, Subd. 1(e)(7), as amended.

The Permittee shall periodically calibrate and perform maintenance on all monitoring and analytical instrumentation used to monitor pollutants discharged under authorization by this permit, at intervals to insure accuracy of measurements. The Permittee shall maintain written records of all such calibrations and maintenance.

8. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the Permittee shall record the following information:

- a. The exact place, date, and time of sampling;
- b. The dates the analyses were performed;
- c. The person who performed the analyses;
- d. The analytical techniques, procedures or methods used; and
- e. The results of such analyses.

9. Additional Monitoring by Permittee

If the Permittee monitors any pollutant at the location(s) designated herein more frequently than required by the Minnesota Pollution Control Agency or Director, the results of such monitoring shall be included in the calculation and reporting of values submitted on the designated Discharge Monitoring Report Form. Any increased monitoring frequency shall also be indicated on such designated form.

10. Recording and Records Retention

All sampling and analytical records required by the conditions of this permit shall be retained by the Permittee for a minimum of three (3) years. The Permittee shall also retain all original recordings from any continuous monitoring instrumentation, and any calibration and maintenance records, for a minimum of three (3) years. These retention periods shall be extended during the course of any legal or administrative proceedings or when so requested by the Regional Administrator, the Minnesota Pollution Control Agency or the Director.

9500207

P1273-10

PART II-

A. MANAGEMENT REQUIREMENTS

1. Change in Discharge

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit. Any anticipated facility expansions, production increases, or process modifications which will result in new, different, or increased discharges of pollutants shall be reported by submission of a new NPDES application or, if such changes will not violate the effluent limitations specified in this permit, by notice of such changes to the Director. Following such notice, the permit may be modified to specify and limit any pollutants not previously limited.

2. Noncompliance Notification

If, for any reason, the Permittee does not comply with or will be unable to comply with any daily maximum effluent limitation specified in this permit, the Permittee shall immediately notify the Compliance and Enforcement Section by telephone (612)296-7236 and confirm in writing, within five (5) days of becoming aware of such condition. The written notification shall contain the following information:

- a. A description of the discharge and cause of noncompliance; and
- b. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue; and steps being taken to correct, reduce, eliminate and prevent recurrence of the noncomplying discharge.

3. Unauthorized Discharges

The Permittee shall immediately notify the Compliance and Enforcement Section of any unauthorized discharge, accidental or otherwise, of oil, toxic pollutants or any other substance or material under its control which, if not recovered, may cause pollution of the waters of the state, and shall recover as rapidly and as thoroughly as possible such oil, toxic pollutant, or other substance or material and take immediately such other action as may be reasonably required to minimize or abate pollution of waters of the state caused thereby.

4. Facilities Operation and Quality Control

All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:

- a. The Permittee shall at all times maintain in good working order and operate as efficiently as possible any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit.

9500208

- b. The Permittee shall provide an adequate operating staff which is duly qualified under Minnesota Regulations WWS 1 if applicable (as determined by the Director pursuant to Agency Regulation WPC 36(1)(6)(ee)) to carry out the operation, maintenance and testing functions required to insure compliance with the conditions of this permit.
- c. Maintenance of the treatment facility that results in degradation of effluent quality shall be scheduled during noncritical water quality periods and shall be carried out in a manner approved by the Director.
- d. The Director may require the Permittee to submit a maintenance plan to eliminate degradation of the effluent. The Permittee shall operate the disposal system in accordance with this plan as approved by the Director.

5. Adverse Impact

The Permittee shall take all reasonable steps to minimize any adverse impact to navigable waters resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge. The results of such monitoring shall be submitted to the Director as required under this provision.

6. Bypassing

Any diversion from or bypass of facilities necessary to maintain compliance with the terms and conditions of this permit is prohibited, except (i) where unavoidable to prevent loss of life or severe property damage, or (ii) where excessive storm drainage or runoff would damage any facilities necessary for compliance with the effluent limitations and prohibitions of this permit. The Permittee shall promptly notify the Director, Attn: Compliance and Enforcement Section, in writing, of each such diversion or bypass.

Notification of any bypass which causes noncompliance with the daily effluent limitations shall be done in accordance with Part II, (a)(2), Noncompliance Notification.

7. Removed Substances

The Permittee shall dispose of solids, sludges, filter backwash, or other pollutants removed from or resulting from treatment or control of wastewaters in such manner as to prevent any pollutant from such materials from entering waters of the state. The Permittee in disposal of such material shall comply with all applicable water, air and solid waste Statutes and Regulations. When requested the Permittee shall submit a plan for such disposal for approval by the Director.

9500209

P/272-12

8. Power Failures

In order to maintain compliance with the effluent limitations and prohibitions of this permit, the Permittee shall either:

- a. In accordance with the Schedule of Compliance contained in Part I, provide an alternative power source sufficient to operate the wastewater control facilities; or
- b. Halt, reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of one or more of the primary sources of power to the wastewater control facilities.

9. Construction

This permit does not authorize the construction of any treatment works associated with this discharge, unless plans and specifications for such facilities have been approved in writing by the Director prior to the start of any construction.

9500210

P1272-13

B. RESPONSIBILITIES**1. Right of Entry**

The Permittee shall pursuant to Section 303 of the Act and Minnesota Statutes 116.091, allow the Director of the Minnesota Pollution Control Agency, the Regional Administrator, and their authorized representatives:

- a. To enter upon the Permittee's premises where a disposal system or other point source or portion thereof is located for the purpose of obtaining information, or examination of records or conducting surveys or investigations; and
- b. To bring such equipment upon the Permittee's premises as is necessary to conduct such surveys and investigations; and
- c. To examine and copy any books, paper, records or memoranda pertaining to the installation, maintenance, or operation or discharge, including but not limited to, monitoring data of the disposal system or point source or records required to be kept under the terms and conditions of this permit; and
- d. To inspect any monitoring equipment or monitoring procedures required in this permit; and
- e. To sample any discharge of pollutants.

2. Transfer of Ownership or Control

In the event of any changes in control or ownership of facilities from which the authorized discharges emanate, the Permittee shall notify the succeeding owner or controller of the existence of this permit by letter, prior to the effective date of the transfer. A copy of this letter shall be forwarded to the Regional Administrator and the Director. Any succeeding owner or controller shall also comply with the terms and conditions of this permit.

3. Availability of Reports

Except for data determined to be confidential under Section 308 of the Act, and Minnesota Statutes, Section 116.075, Subd.2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Minnesota Pollution Control Agency and the Regional Administrator. Procedures for submitting such confidential material shall be pursuant to Minnesota Regulation WPC 36(j)(2). As required by the Act, effluent data shall not be considered confidential. The Permittee shall immediately upon discovery report, in writing to the Director any errors or omissions of such record, reports, plans or other documents prepared in accordance with the terms and conditions of this permit. Knowingly making any false statement on any such report, confidential or otherwise, may result in the imposition of criminal penalties as provided for in Section 309 of the Act and Minnesota Statutes, Section 115.071 Subd.2(a).

9500211

4. Permit Modification

After notice and opportunity for a hearing, this permit may be modified, suspended or revoked in whole or in part during its term for cause including, but not limited to, the following:

- a. Violation of any terms or conditions of this permit;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; or
- d. Agency Regulation 1PC 36(s)(1)

5. Toxic Pollutants

Notwithstanding Part II, B, 4, above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act and Minnesota Statutes, Chapters 115 and 116 as amended, for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and in accordance with applicable laws and regulation.

6. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the Permittee from civil or criminal penalties for noncompliance with the terms and conditions except as otherwise provided in Part I, A, 6. Bypassing and Part I, A, 8. Power Failures.

7. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under Section 311 of the Act and Minnesota Statutes, Chapters 115 and 116 as amended.

8. Federal, State and Local Laws

Nothing in this permit shall be construed to preclude the institution of any legal or administrative proceedings or relieve the Permittee from any responsibilities, liabilities, or penalties for violation of effluent and water quality limitations not included in this permit.

9. Property Rights

The issuance of this permit does not convey any property rights, in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any violation of Federal, State or local laws or regulations.

10. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

9500213

P1272-16

Permit No: MN 0045489

Application No: MN 0045489

PUBLIC NOTICE

for the

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
AND STATE DISPOSAL SYSTEM PERMIT PROGRAM

(Section 402, Federal Water Pollution Control Act, AS AMENDED, Minnesota Statutes Chapters 115 and 116 as amended and Agency Regulation WPC 36)

Proposed NPDES and State Disposal System Permit to Discharge into Waters of the State

Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Attn: Permits Section

Public Notice No: 54I-0098

Name and Address of Applicant:

City of St. Louis Park
5005 Minnetonka Blvd.
St. Louis Park, Minnesota

Public Notice Issued on:
January 30, 1975

Name and Address of Facility
where Discharge Occurs:

City of St. Louis Park
St. Louis Park Public Improvement 72-43
Landfarming at Republic Creosote Site
St. Louis Park, Minnesota

Receiving Water: Minnehaha Creek

NOTICE: The above named applicant has applied for an NPDES Permit to discharge into the designated receiving water. The permit will be issued by the Minnesota Pollution Control Agency for a term of approximately 5 years.

The principal activity at this facility is the treatment of contaminated surface soils and their associated runoff. Contamination of the soils was a resultant of past creosoting and related industrial operations.

Storm sewer waters are being diverted through the contaminated area as part of the land farming operation and a development project the city is undertaking. The discharge will consist of precipitation drainage for approximately 300 acres, flowing through the land farming area at an average rate of approximately 173,900 gallons per day based on the average yearly rainfall for the area.

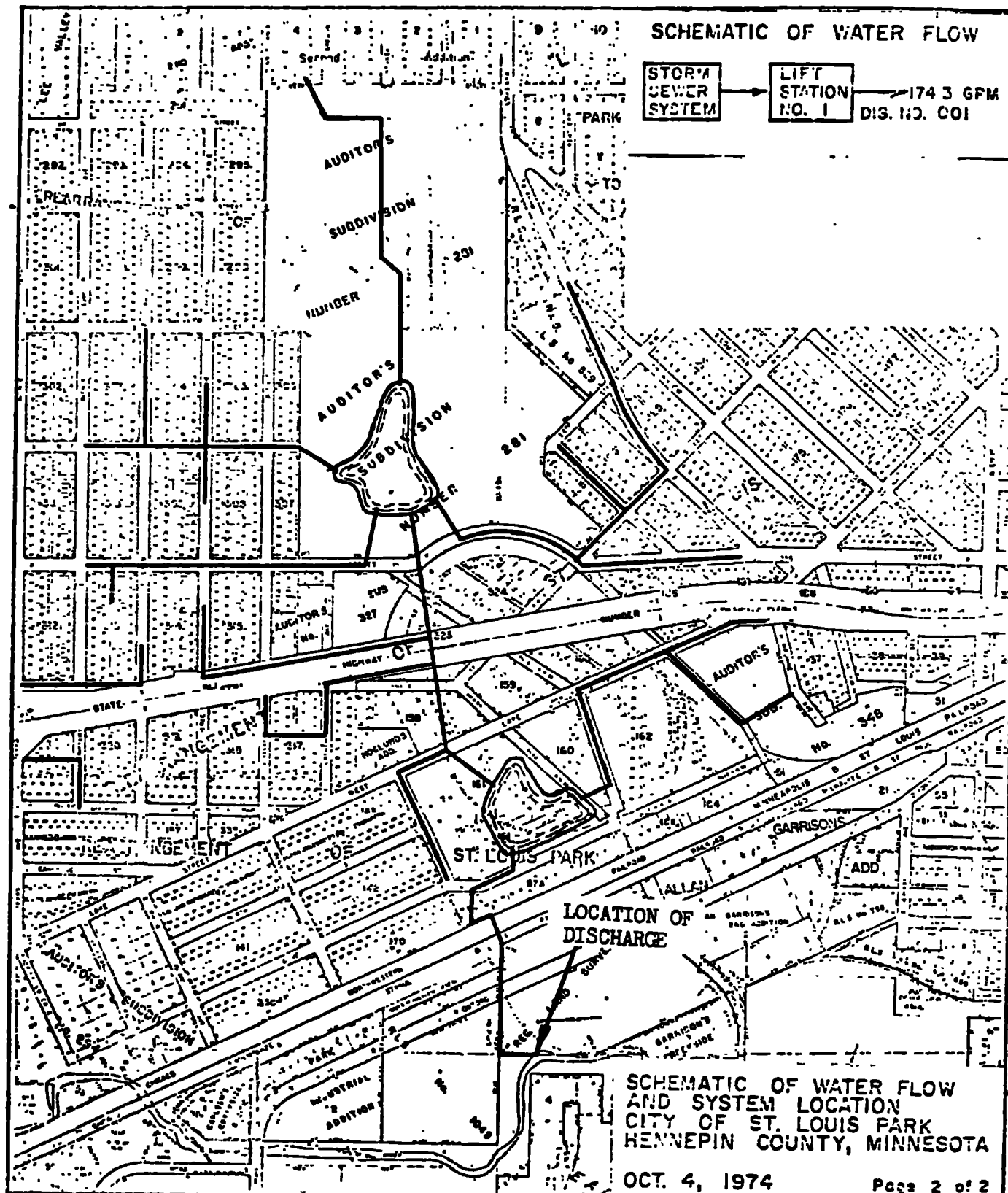
The maximum discharge rate could be 20,000 gallons per minute considering the applicants present design capabilities for their lift station.

Because this is a new discharge the treatment facility is designed to meet the prescribed standards at the time of the initial discharge. A schedule of compliance is not necessary.

Location of the discharge is shown on the attached map

EXHIBIT 2

4600432



4600433

N1272-2

Date: JAN 30 1975

Permit No: MN 0045489

On the basis of preliminary staff review and application of applicable standards and regulations, the Minnesota Pollution Control Agency proposes to issue a permit for the discharge subject to certain effluent limitations and special conditions.

The proposed determination to issue an NPDES Permit is tentative. Interested persons are invited to submit written comments upon the proposed discharge. Interested persons may also petition for a public hearing in accordance with Agency Regulation WPC 36 (k)(1.). Comments of petitions for public hearings should be submitted in person or by mail no later than thirty (30) days after the public notice of this application is issued. Deliver or mail all comments or petitions for public hearing to:

Ms. Terry Mader
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113

The application and notice numbers should appear next to the above address on the envelope and on each page of any submitted comments. All comments received no later than thirty (30) days after the public notice is issued will be considered in the formulation of final determinations. The Minnesota Pollution Control Agency will issue final determinations in a timely manner after the expiration of the public comment period.

The application, proposed permit including proposed effluent limitations, special conditions, comments received and other documents are available for inspection and may be copied anytime between 9:30 A.M. and 3:30 P.M. Monday through Friday. Copies of the Public Notice and the corresponding Fact Sheet summarizing application information and proposed permit conditions are available at the address shown above. If you have any questions regarding this proposed permit, please contact Robert G. Criswell (612)296-7232.

Please bring the foregoing to the attention of persons whom you know would be interested in this matter.

Permit No: MN 0045489

Application No: MN 0045489

FACT SHEET

for the

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) AND STATE DISPOSAL SYSTEM PERMIT PROGRAM

(Section 402, Federal Water Pollution Control Act, AS AMENDED, Minnesota Statutes Chapters 115 and 116 as amended and Agency Regulation WPC 36)

Proposed NPDES and State Disposal System Permit to Discharge into Waters of the State

Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Attn: Permits Section

Public Notice No: 54I-0098

Public Notice Issued on:
January 30, 1975

Name and Address of Applicant:

City of St. Louis Park
5005 Minnehaha Blvd.
St. Louis Park, Minnesota 55416

Receiving Water: Minnehaha Creek

Name and Address of Facility
where Discharge Occurs:

City of St. Louis Park
St. Louis Park Improvement 72-43
Landfarming at Republic Creosote Site
St. Louis Park, Minnesota 55416

I. Location of Discharge

The above named applicant has applied for an NPDES and State Disposal System permit, which will be issued by the Minnesota Pollution Control Agency, to discharge into the designated receiving water. A description and/or sketch of the location of the discharge is appended as Attachment I.

II. Description of Existing Discharge

A quantitative description of the existing discharge in terms of significant effluent parameters is appended as Attachment II.

III. Proposed Determinations

A. The Minnesota Pollution Control Agency has examined the application and has made the tentative determination to issue the permit subject to certain effluent limitations and other mandatory conditions and subject to concurrence by the U.S. Environmental Protection Agency.

EXHIBIT

3

4600485

Date: JAN 30 1975

Permit No MN 0045489

- B. The effluent limitations in the proposed permit are appended as Attachment IIIa.
- C. The schedule of compliance for meeting the proposed effluent limitations is appended as Attachment IIIb
- D. The other special conditions in the proposed permit may include, but are not necessarily limited to: monitoring, recording, and reporting discharges; limiting discharges of oil, hazardous substances, collected solids, visible floating solids, foams and effluent batch discharges; planning for electric power failure and spill prevention and containment; and prohibiting bypass of treatment facilities. Persons wishing further information about the special conditions may contact Robert G. Criswell at (612)296-7232.

IV. Procedures for the Formulation of Final Determinations

- A. Interested persons are invited to submit written comments upon the proposed discharge. Comments should be submitted in person or by mail no later than thirty (30) days after the public notice of this application is issued. Deliver or mail all comments to:

Ms. Terry Mader
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113

The application and public notice numbers should appear next to the above address on the envelope and on each page of any submitted comments. All comments received no later than thirty (30) days after the public notice is issued will be considered in the formulation of final determinations. The Minnesota Pollution Control Agency will issue final determinations in a timely manner after the expiration of the public comment period.

- B. Any person may request a public hearing to consider the proposed permit. The Agency will consider requests received no later than thirty (30) days after the public notice of this application is issued. All requests for public hearings must conform to the requirements of Minnesota Regulations WPC 36(k)(1) which requires that requests for a public hearing should contain at least the following:

- (1) The reason or reasons a public hearing is requested;
- (2) The interest in or relationship of the petitioner to the application or proposed discharge identified therein; and
- (3) Specifically indicate which portion or part of the application or other NPDES form or information constitutes necessity for such public hearing.

In addition, it is recommended that the hearing request state the issues to be considered at the hearing and the requester's position on each issue.

Date: JAN 30 1975

Permit No: MN 0045489

If the Agency determines that there is sufficient public interest in the permit application, the Agency shall hold a public hearing on the application. If held, the public hearing will be conducted in conformance with Agency Rules of Procedure contained in Minnesota Regulation MPCA 9. Notice of the public hearing will be prepared and circulated in conformity with Minnesota Regulation WPC 36(k) for a period of at least thirty (30) days prior to the hearing. After the public hearing, the hearing officer shall submit his recommendations to the Agency and the Director pursuant to Minnesota Regulation MPCA 9(o) and Minnesota Regulation WPC 36 (o)(2). The Director shall then make a determination and recommendation regarding the issuance of a permit which shall be subject to Agency approval. Further information regarding the conduct and nature of public hearings may be obtained by contacting the Minnesota Pollution Control Agency.

- C. Persons wishing further information may contact the Minnesota Pollution Control Agency. Copies of the application, proposed permit including proposed effluent limitations, special conditions, comments received, and other documents are available for inspection and may be copied.

V. Use Classification, Water Quality Standards, and Effluent Limitations

The receiving water is classified for Fisheries and Recreation 2B waters.

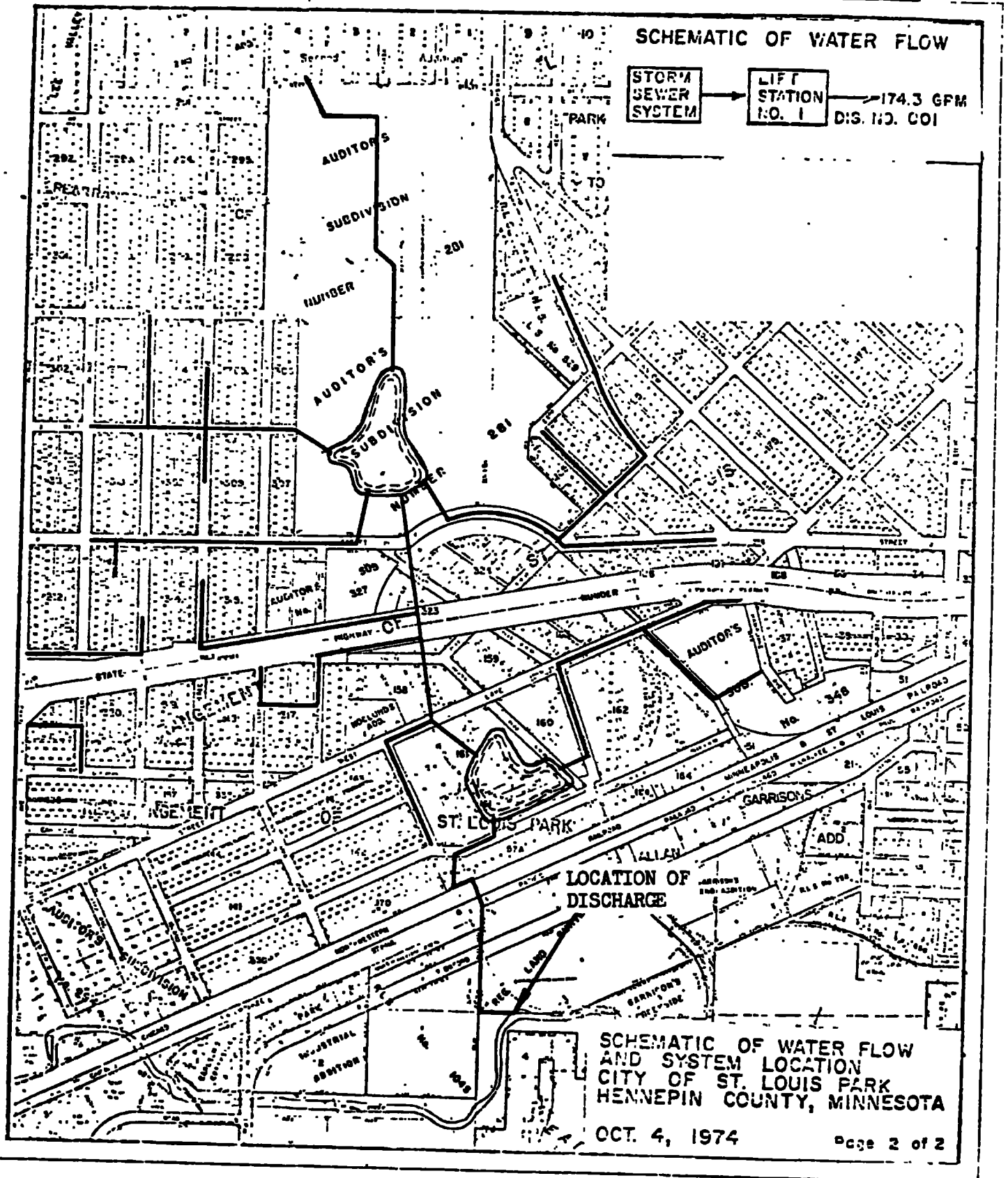
The following water quality standards and effluent standards and limitations were applied to the discharge:

Minnesota Regulations WPC 14, 24, and 36.

4610607

F1272-3

Permit No: MN 0045489



4666488

51277-4

Date: JAN 30 1975

Permit No: MN 0045489

ATTACHMENT II

EFFLUENT CHARACTERISTICS

Discharge 001

This discharge will consist of treated surface drainage flowing through a land farming operation which is designed to remove chemical pollutants in the surface soils associated with a creosoting operation which existed in this area. The average daily flow based on the average annual rainfall for the area is approximately 173,900 gallons per day. Data is not presently available to indicate the exact nature of the effluent, however, the following chemical constituents may be present as indicated in sampling done near this site and various data on wastewaters associated with creosoting operations and facilities utilizing chlorine dioxide treatment.

Oil and Grease	Copper
Phenols	Nickel
Quinone	Lead
Total Chlorine Residual	Ammonia
Zinc	Benzo- α -pyrene
Cadmium	Chrysene
	pH

ATTACHMENT IIIa

EFFLUENT LIMITATIONS

Discharge 001

Beginning on the effective date of this permit and lasting until expiration of the permit.

<u>Parameter</u>	<u>Daily Average</u>	<u>Daily Maximum</u>	<u>*Variable Daily Maximum</u>
Oil and Grease	10mg/l	15mg/l	0.5 X mg/l
Phenols	-	0.1mg/l	0.01X mg/l
Quinone	-	0.4 mg/l	0.04 X mg/l
Total Chlorine Residual	-	0.2mg/l	0.01 X mg/l
Zinc	-	0.0mg/l	0.02 X mg/l
Cadmium	-	0.2mg/l	0.03 X mg/l
Copper	-	0.5mg/l	0.01 X mg/l
Nickel	-	2.0mg/l	0.52 X mg/l
Lead	-	1.0mg/l	0.03 X mg/l
Ammonia	-	2.0mg/l	1.0 X mg/l
Benzo - α -pyrene	-	0.01mg/l	-
Chrysene	-	0.01mg/l	-
pH Range	-	6.5 - 8.5	

Note 1:X is equal to $\frac{[(0.25 \text{ flow in receiving stream}) + (\text{effluent flow rate})]}{\text{effluent flow rate}}$. The daily maximum shall be considered to be the applicable maximum limitation except when the variable daily maximum is more stringent.

Date: JAN 30 1975

Permit No: MN 0045489

ATTACHMENT IIIb

SCHEDULE OF COMPLIANCE

A schedule of compliance is not necessary because the applicant shall be required to meet the limitations at the time the discharge begins.

4600440

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION
CONTROL AGENCY

In the Matter of the Application by the
City of St. Louis Park for a National Pol-
lutant Discharge Elimination System Permit
(MNCOL5489) to Discharge from a Wastewater
Treatment System on the Former Republic
Creosote Site to Minnehaha Creek.

FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATIONS

The above entitled matter came on for hearing before the undersigned hearing officer commencing at 9:30 a.m. on the 27th day of February, 1975, in the Community Room of the St. Louis Park Office Building in the City of St. Louis Park, Minnesota, after proper notice was given pursuant to Minnesota Regulation WPC 36 and Minnesota Statutes Chapter 15.

FINDINGS OF FACT

After affording all parties and interested persons an opportunity to present oral and written arguments and statements, having heard all of the testimony and having considered the evidence adduced and upon the records, files and proceedings herein, the hearing officer finds the following:

1. In October, 1970, the Agency and the city commenced an action against the Reilly Tar and Chemical Company to abate pollution of waters of the state resulting from its creosoting operations. Earlier investigations made by the Agency and the city provided evidence of pollution of surface and ground waters by coal tar distillates and other industrial chemicals at and in the vicinity of the Republic Creosote Plant. As a settlement of that litigation with the company, the city purchased from the company the site on which the plant was located, it being the intent of the city to redevelop the site for housing.

2. The City of St. Louis Park on October 10, 1974, pursuant to the provisions of Minnesota Regulation WPC 36, applied for a

EXHIBIT 4

4600-66

Discharge Elimination System (NPDES) permit for the discharge to Minnehaha Creek of an annual average of 173,900 gallons per day of urban area runoff water combined with a certain amount of chemical wastes which may be transported from residues at the site of the former Republic Creosote plant in St. Louis Park.

3. The city has submitted to the Agency plans for installing a storm sewer collection system to receive and transport the runoff water to a series of settling basins and thence to a lift station at which treatment chemicals will be added to the waste before it is pumped to Minnehaha Creek. The plans and specifications for the proposed disposal system were reviewed and approved by the Agency staff and Permit No. 8718 for construction of the system was issued on February 7, 1975. Based on average annual precipitation, maximum discharge would be 16,000 gpm over three days total per year, or 17 days total of discharge per year at the minimum pumping rate of 2,500 gpm. Wastes from this project can be discharged to the creek only by pumping.

4. The Agency considered procedures for disposition of the NPDES permit application and determined that the matter of treatment and disposition of the surface runoff should be handled procedurally separately from the matter of determining what measures ultimately would be necessary for rehabilitation of the ground waters, this decision being based on the need for more definitive studies on the extent and severity of the ground water pollution and further evaluation of the feasibility of various control measures.

5. Subsequently, a public hearing on a proposed NPDES permit was authorized by the Agency. Parties to the proceeding, in addition to the Agency were: City of St. Louis Park, Minnesotans Against Pollution, Creekside Chapter of the Izaak Walton League of America, and Clear Air-Clear Water, Unlimited. The purpose of the hearing was to resolve a number of issues as specified in the notice. A pre-hearing conference at which all of the parties

were represented was held on February 26, 1975, for the purpose of simplifying the issues and reviewing testimony to be presented. At the hearing on February 27, 1975, the Agency was represented by Special Assistant Attorney General William P. Donohue, St. Louis Park by City Attorney Wayne G. Popham, Minnesotans Against Pollution by Dr. S. Chapman and Mrs. Mattie Peterson, Co-Chairpersons, and the Creekside Chapter, Izaak Walton League of America by Larry D. Krug, President, and Mrs. Mattie Peterson, Clear Water Coordinator for the Minnesota Division.

6. With respect to the first issue identified in the notice of hearing, i.e., "whether the proposed discharge from the storm water treatment facility must obtain an NPDES permit", it was indicated at the pre-hearing conference that the city did not object to the issuance of a NPDES permit. It is not contested that the source and wastes to be discharged constitute a point source of pollutants within the meaning of the statutes, nor that the storm water runoff includes contaminants of industrial origin.

7. With respect to the second issue identified in the public notice, i.e., "whether the proposed permit should include limitations for biological [chemical] oxygen demand [BOD], total suspended solids [TSS], oil and grease and lead", all of the substances named may be expected to be present in the raw waste water in varying degrees and, if not controlled, may have a detrimental effect on the water quality of the receiving stream. It is not definitely known at present what levels of these substances will be found in the area runoff and what additional amounts may be expected from passage of the flow over the proposed 30 acre land farming site and the contaminated industrial area. The treatment facilities planned to be provided if properly operated may be expected to achieve a substantial degree of reduction of these waste constituents from whatever source, and thus provide a corresponding measure of protection of the creek from pollution by these substances. The facilities proposed also will

meet the requirements of the Minnehaha Creek Watershed District for new storm sewer discharges to the creek. There is presently no policy of requiring treatment of existing discharges of storm water. Meeting a proposed effluent standard of 5 mg/l of BOD or TSS could not be done except by the application of extraordinary and very costly measures not now required of other similar sources. However, it is not unreasonable in view of the extended storage and versatility of operation incorporated in the proposed system to expect that, except for periods of heavy or extended rainfall, the system could produce an effluent quality approaching the 25 mg/l BOD and 30 mg/l TSS level specified for secondary treatment works.

The present policies of the U. S. Environmental Protection Agency do not require the treatment of otherwise uncontaminated surface runoff, nor are construction grant funds presently available for public facilities of this nature. The Agency's regulations do not exempt surface runoff per se from control, but its current policies do not require the application by local governments of measures for the control of existing pollutional discharges of this nature for which state or federal grant funds are not available. The application of control measures to this type of waste has in main been limited to non-governmental sources, except for significant new sources subject to control under the non-degradation clause of regulations WPC 14 and 15. No uniform specific criteria have as yet been developed by the Agency for the design of surface runoff disposal systems to assist compliance by such sources with applicable effluent and/or water quality standards.

8. With respect to the third issue, i.e., "whether the proposed permit should contain conditions with respect to the groundwater and soil of the area drained by the proposed storm water treatment system" there is not sufficient information available at present to adequately define the control measures which may ultimately be necessary to restore the subsurface forma-

tions to an acceptable condition and effectively abate or control pollution of the underground waters. Testimony by the city has established that substantial technical studies extending over some period of time will be needed both to define fully the extent of the ground water pollution and to devise measures to abate or control the same. Although construction and operation of the proposed surface runoff disposal is likely to reduce the movement of contaminated ground waters, it is not known at this time what obstacles to future control or abatement measures might be posed if redevelopment of the site and building construction commence before the necessary ground water pollution studies are completed and abatement or control measures applied. Redevelopment undertaken before resolving the ground water pollution problem also could exacerbate the surface water pollution problem if it should prove to be necessary to excavate substantial areas, relocate or reconstruct parts of the disposal system or provide additional treatment capacity.

9. With respect to the fourth issue, i.e., "whether the applicant should be required to treat any parameter that is limited in the permit below levels which are found in storm water runoff prior to flowing over uncontaminated areas", it is apparent that many of the substances proposed to be limited in the permit can originate in varying levels from either the contaminated or uncontaminated areas and will be reduced to some degree by the use of the proposed settling ponds. The extended settling capability, associated surge control and aeration and chlorination afforded by the system are attributes basic to a system intended for the best practicable treatment of ordinary surface runoff.

10. With respect to the fifth issue, i.e., "whether the proposed permit should contain effluent limitations that are the same as water quality standards for the receiving water", it is an implicit requirement of the non-degradation

clause of regulation WPC 14 (b)(8) as applied to a new source that the quality of the new effluent must be as high as the natural background quality of the stream at the point of discharge with respect to those parameters for which the stream quality is equal to or better than the applicable water quality standard. However, this requirement is subject to modification by a showing that provision of no more than the best practicable treatment is justified by necessary development and that any change in the stream quality resulting from the discharge of waste treated to such an extent will not preclude beneficial uses of the stream.

11. With respect to the sixth issue, i.e., "whether the last paragraph on page 5 of the proposed permit should be amended to additionally require representative monitoring of the storm water runoff prior to flowing over contaminated areas", it was indicated by the city that such monitoring would be done. In any event the knowledge gained from such monitoring is essential to a determination of the effectiveness of the land farming operation and to distinguish between the pollutants which originate with ordinary surface and those which originate from the industrial contaminants. The land farming operation is intended to be completed well before the commencement of any discharge to Minnehaha Creek.

12. With respect to the seventh issue, i.e., "whether the proposed condition in Part 2 C4 (page 8 of the proposed permit) relating to changes in monitoring requirements should be amended to allow changes after "a reasonable time"", it was indicated by the parties to the proceeding that there was no objection to the proposed change in the permit, which would allow amendment of the monitoring plan, providing all concerned were informed of proposed changes in the monitoring plan and afforded an opportunity to comment thereon before the Director acts on the proposal.

13. With respect to the eighth issue, i.e., "whether the proposed permit

should be amended to add a section which allows termination of the permit when it can be shown that the storm water is no longer contaminated by flowing over the former creosote plant site", it is a requirement of regulation WPC 36(m) that NPDES permits issued by the Agency shall have a fixed term, not to exceed five years.

It has not been shown with certainty that the limitations of the permit relating to the industrial contaminants can be met within any definite period of less than five years. Regulation WPC 36 (S) (1) (aa) requires that opportunity for public hearing must be provided before a NPDES permit is modified, including a change relating to the elimination of a permitted discharge.

14. With respect to the ninth and last issue, i.e., "whether the description of the facility on page 2 of the proposed permit should be changed to reflect the past activities that occurred on the discharge site", no objection was made to the addition of a brief history of the situation as proposed by the city, with certain specified minor revisions.

CONCLUSIONS

NOW, THEREFORE, based on the above findings of fact, the hearing officer hereby concludes that:

1. Construction and operation of the area runoff collection and treatment project on the former Republic Creosote site in conjunction with land farming, discharge of strong wastes to the sanitary sewer, and isolation of the main part of the creosote residues as proposed by the City of St. Louis Park can be from an overall viewpoint compatible with the Agency's goals of preventing any new water pollution and abating existing pollution of the underground waters of the state in the vicinity.

2. Given certain modifications with respect to further monitoring, studies and commitments, the project may be expected to enhance prospects for an early

start on rehabilitation of the waters and soils underlying the site while at the same time minimizing any significant extension of the zone of polluted ground water or causing new pollution of Minnehaha Creek.

3. Collection of the surface waters of the site in conjunction with temporary covering over or isolation of the remaining substantial areas of contaminated residue is expected to reduce the infiltration of surface water into the ground in the area and thus to reduce in some degree the potential for further movement of the creosote residues and polluted ground water away from the site. Avoidance of significant pollution of Minnehaha Creek consistent with the requirements of Regulation WPC 14 can be achieved by the imposition of stringent construction, monitoring and operational requirements on the project together with rigorous supervision by the staff of the Agency to ensure compliance with all requirements.

4. In view of the prior lack of discharge of surface waters from this area to Minnehaha Creek, proposed outlet 001 of permit MNO045489 is considered to be a new project subject to the non-degradation requirement of regulation WPC 14 (b)(8). The provision in the project by the city of settling and chlorination facilities which can usually provide a considerable measure of flow equalization of the waste water and a high degree of removal of settleable solids plus substantial reductions in the BOD, suspended solids, turbidity and coliform organism content of the waste constitutes reasonable compliance with currently accepted requirements for best practicable treatment of ordinary runoff from urban surfaces.

5. The proposed discharge of surface runoff water combined with soluble and suspended substances derived from the waste residues of the former Republic Creosote plant site constitutes a point source of pollutants within the definitions of Minnesota Statutes Chapter 115 and is subject to the permit requirements of regulation WPC 36.

400.6-73

The control of storm water discharges is clearly within the scope of regulation WPC 14 but because of the variable uncertain nature of the waste to be treated in regard to both flow and concentration, the provision of substantial treatment facilities by the city, and the lack of definite state criteria upon which to base the design of storm water treatment works, it is considered reasonable to defer the incorporation of fixed limits for BOD and TSS in the permit at this time. However, the city should be required to strive to operate the proposed disposal system to meet as a reasonable and practicable treatment objective the specified secondary effluent limits for BOD and TSS.

6. Because of the interrelated nature of the surface and ground water problems it is reasonable to incorporate in the permit general conditions with respect to resolution of the ground water problem.

7. To the extent that a given substance which is limited in the permit can be shown to originate from the industrial contaminants it is proper to require the application of any practicable control measures necessary to prevent pollution of the creek, including measures going beyond those of the presently approved treatment works. To the extent that a given substance can be identified as originating from the uncontaminated area, it would not be appropriate to require a degree of reduction beyond that which might be expected to result from the use of the proposed equalization, settling, aeration and chlorination facilities in the absence of the industrial contaminants.

8. The effluent and other limitations of the proposed NPDES permit MNOO45489, if modified as recommended, together with the use of the waste treatment system approved in permit 8718 and any modifications necessary to meet the limits set forth in the NPDES permit, are consistent with the requirements of regulation WPC 14 and, on the basis of available knowledge, will not allow degradation of the stream quality to the extent that existing or future beneficial uses would be precluded.

9. Monitoring of the flow and characteristics of the ordinary surface runoff before it reaches the contaminated areas is necessary for an adequate understanding of the operation of the proposed disposal system. Changes in project monitoring plans may be justifiable on grounds of sufficient data accumulation, economy or reliability of the system, and should not be precluded after a reasonable period if adequate justification is made to the Director that the project objectives will not be compromised by such changes.

10. It would not be appropriate to incorporate in the permit a condition allowing for termination of the NPDES permit after an indefinite period of time.

11. Inclusion in the permit of a brief description of the history of the project and past activities at the former Republic Creosote site will facilitate better public understanding of the terms and conditions of the permit and is in the best interests of the parties involved.

RECOMMENDATIONS

NOW, THEREFORE, based upon the authority vested in the hearing officer and the record of this hearing, the hearing officer hereby recommends that the Minnesota Pollution Control Agency:

1. Issue to the City of St. Louis Park NPDES permit MN0045489 for the proposed discharge of area runoff to Minnehaha Creek substantially in the form of the proposed permit appended hereto as Attachment A.

2. Modify the proposed permit to include in Part I, A and C, an optional requirement for monitoring to adequately determine the background characteristics of the flow in Minnehaha Creek at minimum during any periods in which effluent is to be discharged at concentrations exceeding those specified as the variable daily maximum (part IA1, page 5, without the x multiplier), and that the specified daily maximum release rates (flow and/or concentration) specified by part IB5, page 7, be made subject to adjustment depending upon the background

level, if any, of these substances found in the flow of Minnehaha Creek upstream from the discharge point, to the end that the concentration of these substances in the creek after complete mixing of the effluent therein should not exceed the applicable water quality standards for the stream. In the event the applicant does not submit an adequate plan or does not do monitoring adequate for this purpose the effluent concentrations (the given variable daily maximum without the x multiplier) should not be allowed to exceed the applicable water quality standards at the point of discharge before dilution in the stream. For this purpose, the daily maximums specified for benzopyrene and chrysene may be used also as the variable daily maximum. It is further recommended that the applicant be required to submit a plan for and do monitoring for suspended solids, biochemical oxygen demand (or an acceptable analytical determination in lieu thereof), turbidity and coliform organisms adequate to establish the levels of these substances in the raw waste, the effluent and the flow in Minnehaha Creek before and during periods of discharge of effluent from the disposal system.

3. Require the applicant before construction is commenced to submit within three months of the date of issuance of this permit to the Agency for approval plans for the existing storm runoff system and proposed diversion for the estimated additional 180 acres which are now drained to Bass Lake and from which the runoff is proposed to be diverted to the new system for discharge to Minnehaha Creek (via outlet 001 of permit MN0045489). The permittee also should be required to submit to the Agency for approval before construction of the disposal system is started under permit 8718 a plan for monitoring the ground water and subsurface soils of the proposed land farming site, such monitoring plan to be sufficiently comprehensive and representative to enable an evaluation to be made by the Agency and city during successive stages of the project of the degree, if any, to which the land farming activity may contribute to further de-

gradation of the underground waters of the site and, if so, of any modifications which should be made in the operation of the project to minimize any such degradation.

4. Require the applicant to submit to the Agency for approval a proposal for an adequate plan of study to determine the extent and severity of pollution of the underground waters resulting from the discharge of wastes at the former Republic Creosote site, together with a commitment to provide measures for satisfactory control of such ground water pollution within a reasonable time, and to obtain Agency approval for such plan and commitment within six months of the date of approval of this permit. In the event the city should fail to obtain such approval within the period indicated above, it is recommended that the Agency promptly thereafter initiate proceedings leading to the issuance of an order or for legal action as may be considered appropriate to abate pollution of the underground waters of the state at this site and obtain compliance with regulation WFC 22.

5. Develop definitive criteria for the design and operation of storm water treatment works for application to existing as well as new sources. New sources to be controlled under the non-degradation requirements of regulation WPC 14 (b)(8) should be required to meet as a minimum for best practicable treatment of surface runoff the secondary effluent standards of WPC 14 (c)(6).

6. Incorporate in the permit as an objective effluent levels of 25 mg/l BOD and 30 mg/l TSS with suitable allowance for excursions or performance failure attributable to the existing design limitations of the treatment works, and consider possible incorporation of these levels as fixed standards in a new permit after the expiration of the proposed permit.

7. Require from the city assurances that no building construction or other substantial redevelopment activity will be undertaken on the former Republic Creosote site which could jeopardize the operation of the surface runoff treat-


ment works or delay resolution of the ground water pollution problem.

8. Change the proposed permit to require representative monitoring of the surface runoff prior to flowing over contaminated areas.

9. Allow amendment of the project monitoring plan after the plan has been followed for a reasonable time, but before acting upon any request of the applicant for changes in the plan the parties to this proceeding should be given an opportunity to review and comment on the proposal.

10. Modify the proposed permit to include in the description of the project as given on page 2 the language of Attachment B.

Dated this 7th day
of March, 1975.


C. A. Johannes,
Hearing Officer

ATTACHMENT B

3. The description of the project on page 2 should utilize the language of the stipulation as follows:

In October, 1970, the Minnesota Pollution Control Agency and the City of St. Louis Park jointly commenced an action against Reilly Tar and Chemical Company to abate pollution violations resulting from the operation of its creosote plant. As a settlement of that litigation between the city and Reilly Tar and Chemical Company the city purchased from Reilly Tar and Chemical Company the property on which the plant was located, intending to dispose of the property for appropriate future redevelopment of the site. The prior creosote production and treatment operations on the site deposited wastes on the land containing coal tar distillates and/or related industrial chemicals which if mixed with storm water would contribute to degradation of surface waters of the state.

The city is installing a storm sewer in an area which includes the former premises of the creosote plant, and the storm sewer will discharge into Minnehaha Creek. Initially it is expected that the runoff water from the former plant site will pick up pollutants which, if not treated, will not comply with Agency Regulations WPC 2, WPC 14, and WPC 24 as presently adopted. With the passage of time it is expected that the runoff from the former site will progressively be cleared of pollutants picked up from the surface of the land.

The city shall construct and place into operation a disposal system designed to treat all waste water pollutants attributable to the soil contamination described above. The treated effluent will be discharged from the disposal system at an approximate rate of 173,900 gallons per day based on the average annual rainfall.

Permit No: MN 0045489

Application No: MN 0045489

AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM AND STATE DISPOSAL SYSTEM PERMIT PROGRAM

In compliance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq; hereinafter the "Act"), Minnesota Statutes Chapters 115 and 116 as amended and Minnesota Pollution Control Agency Regulation WPC 36 (hereinafter Agency Regulation WPC 36)

CITY OF ST. LOUIS PARK

is authorized by the Minnesota Pollution Control Agency, to discharge from City Development Project including land farming and storm sewer projects located as shown on Pages 3 and 4 of 16.

to receiving water named the Minnehaha Creek.

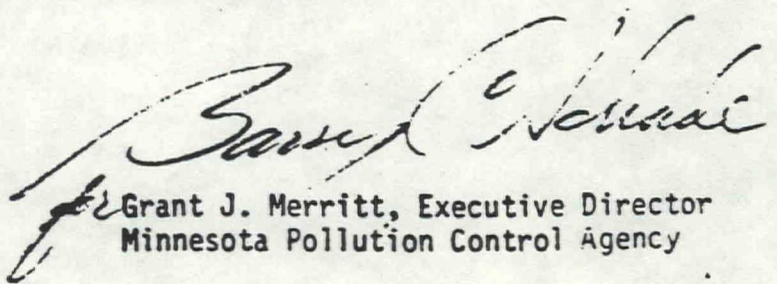
in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I and II, hereof.

The permit shall become effective on the date of issuance by the Director pending final approval by the Agency. The Permittee shall be notified of the final decision of the Agency regarding this permit.

This permit and the authorization to discharge shall expire at midnight, December 31, 1979. The Permittee is not authorized to discharge after the above date of expiration. In order to receive authorization to discharge beyond the above date of expiration, the Permittee shall submit such information and forms as are required by the Agency no later than 180 days prior to the above date of expiration pursuant to Agency Regulation WPC 36.

Date

APR 11 1975


Grant J. Merritt, Executive Director
Minnesota Pollution Control Agency

4600300

EXHIBIT

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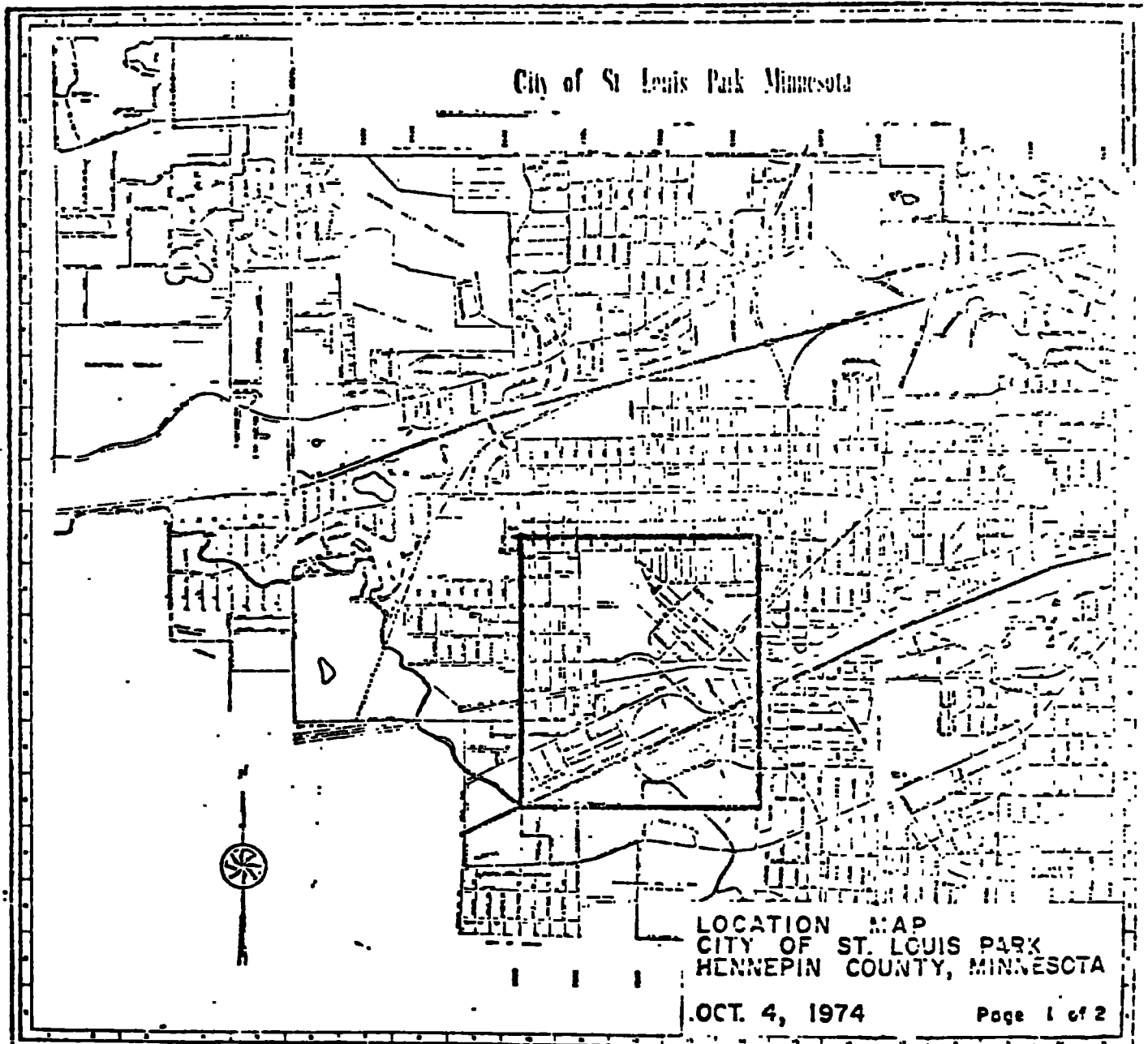
DESCRIPTION

In October, 1970, the Minnesota Pollution Control Agency and the City of St. Louis Park, jointly commenced an action against Reilly Tar and Chemical Company to abate pollution violations resulting from the operation of its creosote plant. As a settlement of that litigation between the City and Reilly Tar and Chemical Company, the City purchased from Reilly Tar and Chemical Company the property on which the plant was located, intending to dispose of the property for appropriate future redevelopment of the site. The prior creosote production and treatment operations on the site deposited wastes on the land containing coal tar distillates and/or related industrial chemicals which if mixed with storm water would contribute to degradation of surface waters of the state.

The City is installing a storm sewer in an area which includes the former premises of the creosote plant, and the storm sewer will discharge into Minnehaha Creek. Initially it is expected that the runoff water from the former plant site will pick up pollutants which, if not treated, will not comply with Agency Regulations WPC 2, WPC 14, and WPC 24 as presently adopted. With the passage of time it is expected that the runoff from the former site will progressively be cleared of pollutants picked up from the surface of the land.

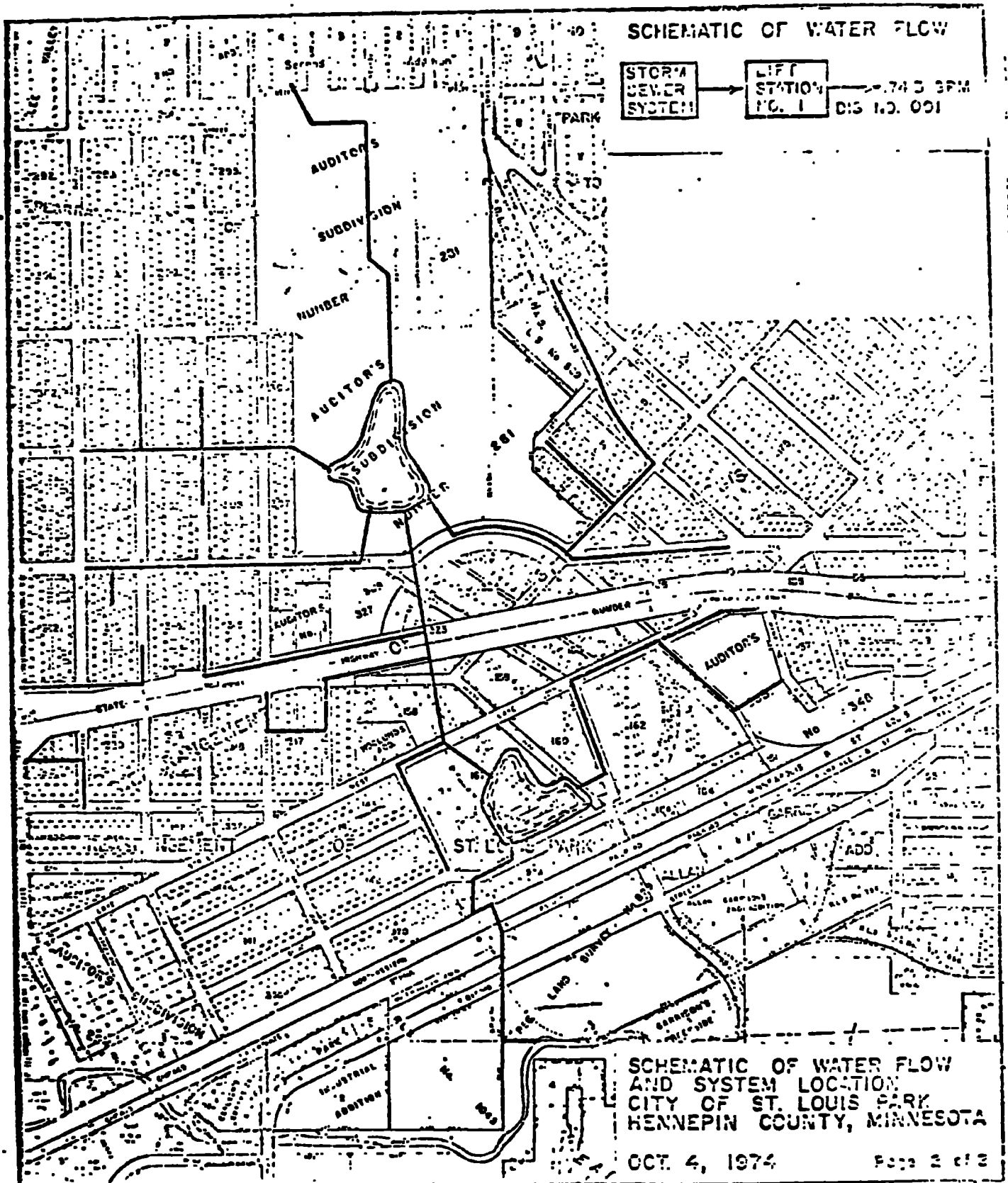
The City shall construct and place into operation a disposal system designed to treat all wastewater pollutants attributable to the soil contamination described above. The treated effluent will be discharged from the disposal system at an approximate rate of 173,900 gallons per day based on the average annual rainfall.

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4600362

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PART I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- * 1. During the period beginning on the effective date of this permit and lasting until December 31, 1979 the Permittee is authorized to discharge from outfall serial number 001.

Such discharges shall be limited and monitored by the Permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Specify Units			Measurement Frequency	Sample Type
	Monthly Avg.	Variable Daily Max.	Daily Max		
Flow-M ³ /Day (MGD)	-	-	-	Continuous	Daily Total Flow
Flow in Minnehaha Creek-M ³ /Day (MGD)	-	-	-	Continuous	Daily Total F?
Oil and Grease	10mg/l	0.5 + B mg/l	15mg/l	Daily	Grab
Phenols	-	0.01 + B mg/l	0.1mg/l	Daily	Grab
Quinone	-	0.04 + B mg/l	0.4mg/l	Daily	Grab
Total Chlorine Residual	-	0.01 + B mg/l	0.2mg/l	Daily	Grab
Zinc	-	0.12 + B mg/l	1.0mg/l	Weekly	Grab
Cadmium	-	0.03 + B mg/l	0.2mg/l	Weekly	Grab
Copper	-	0.01 + B mg/l	0.5mg/l	Weekly	Grab
Nickel	-	0.52 + B mg/l	2.0mg/l	Weekly	Grab
Lead	-	0.03 + B mg/l	1.0mg/l	Weekly	Grab
Ammonia (as N)	-	1.0 + B mg/l	2.0mg/l	Weekly	Grab
Benzo- a -pyrene	-	-	0.01mg/l	Monthly	Grab
Chrysene	-	-	0.01mg/l	Monthly	Grab
BOD ₅	-	-	-	Weekly	Grab
Total Suspended Solids	-	-	-	Weekly	Grab
Turbidity	-	-	-	Weekly	Grab
Fecal Coliform	-	-	-	Weekly	Grab

The pH shall not be less than 6.5 nor greater than 8.5 and shall be monitored by daily grab sample.

These upper and lower limitations are not subject to averaging and shall be met at all times.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

The discharge shall not contain oil or other substances in amounts sufficient to create a visible color film on the surface of the receiving waters.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location:
at a point representative of the discharge to the Minnehaha Creek.

*See Other Requirements Part I, B. 6. for computation of B value for the specified parameters. The Variable Daily Maximum shall be applicable as the maximum permissible effluent concentration except when the Daily Maximum value is more stringent.

In the event that adequate background monitoring is not done to determine a value for B as defined in Part I B. 6. of this permit then the B value shall be considered equal to zero.

In the event that the calculated value of B is less than zero then the value of B shall be considered to be equal to zero.

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B. OTHER REQUIREMENTS

1. Pretreatment

No pollutant shall be discharged from this facility to a publicly owned treatment works except in accordance with pretreatment standards established in accordance with the Act or Minnesota Statutes or any such local standards or requirements. No pollutant shall be discharged into any publicly owned disposal system which interferes with, passes through inadequately treated or otherwise is incompatible with such disposal system. The Permittee shall not make modifications to divert any discharge of pollutants authorized by this permit to a publicly owned treatment works without having first notified and received the approval of the Director.

2. The Permittee shall be responsible to provide treatment for all surface runoff water passing through the storm sewer system to bring the runoff water to the required standards. Plans for the treatment system shall be submitted to the Agency and are subject to its approval prior to commencement of the discharge.
3. This permit is neither a commitment to/or an approval of any subsequent development of this site and is without prejudice to the position of any party on the matter of responsibility for the cost of what ever ultimate work needs to be done to rehabilitate or eliminate any pollution associated to the soils and its ground waters.
4. The Permittee shall be responsible for the future removal or alteration of the storm sewer system as might be necessary as part of what ever work is needed to rehabilitate the underlying soil and its associated soils and ground waters.
5. The treatment facility described in this permit shall maintain best practicable operational capabilities at all times with the objective of maintaining the discharge levels for five day biochemical oxygen demand and total suspended solids at 25 mg/l and 30 mg/l, respectively, as a monthly average.

6. Flow Factor B

$$B = [F_U / 4F_E] [C_S - C_U]$$

Where: F_U = The daily total flow rate in Minnehaha Creek above the point of discharge

F_E = The daily total flow rate for the discharge

C_U = The background concentration for Minnehaha Creek for the specific effluent characteristics above the point of discharge. The method for determining the background levels for the specific parameters shall be done by sampling Minnehaha Creek above the point of discharge once every two weeks for a one year period prior to commencement of the discharge and averaging the samples.

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C_S = The water quality standard for a specific parameter. These are as follows:

Oil and Grease	0.5 mg/l
Phenols	0.01 mg/l
Quinone	0.04 mg/l
Total Chlorine Residual	0.01 mg/l
Zinc	0.12 mg/l
Cadmium	0.03 mg/l
Copper	0.01 mg/l
Nickel	0.52 mg/l
Lead	0.03 mg/l
Ammonia (as N)	1.0 mg/l

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C. MONITORING AND REPORTING

1. Representative Sampling

Samples shall be taken at a point representative of the discharge. Any monitoring measurements taken as required herein shall be representative of the volume and nature of the monitored discharge.

2. Monitoring Plan

The Permittee shall submit a plan for monitoring the discharge to Minnehaha Creek, for monitoring the subsurface soils in the area of the land farming operation, for monitoring the water quality of Minnehaha Creek above the discharge point and for monitoring the storm water within forty five (45) days after the date of issuance of this permit for approval and thereafter submit a written report to the Director each month in compliance with such plan. The monitoring plan shall include the items described in Agency Regulation WPC 36 (n) (2).

Monitoring of the subsurface soils shall include those parameters required of the discharge in Part I. A. 1. of this permit.

Monitoring of the water quality of Minnehaha Creek shall include all parameters where the Permittee intends to utilize the Flow Factor B described in Part I. B. 6. in determining the maximum effluent concentration for the specific parameter.

The extent to which monitoring of the storm water prior to entering the contaminated area shall be done shall be agreed upon after a review of the monitoring plan.

3. Reporting

Monitoring results obtained during the previous month shall be summarized and reported on the designated "Discharge Monitoring Report Form", and received or postmarked no later than the 21st day of the month following the completed reporting period. The first report is due on May 21, 1975. Signed copies of these, and all other reports required herein, shall be submitted to the Director at the following address:

Director
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Attn: Compliance and Enforcement Section

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4. Reduction or Elimination of Monitoring Requirements

If the Permittee after monitoring for a reasonable time determines that he is consistently meeting the effluent limits contained herein, the Permittee may request of the Director that the monitoring requirements be reduced or eliminated. The Permittee may also request after a reasonable period the reduction or elimination of subsurface soil monitoring, surface runoff monitoring, and water quality monitoring. This request shall be submitted for review to all parties of the Public Hearing held for the proposed NPDES permit (MN 0045489) on February 27, 1975 and the determination of the Director shall be binding.

5. Monitoring Report

The Permittee shall report the results of the monitoring requirements in the units specified in this permit. A report or written statement is to be submitted even if no discharge occurred during the reporting period. The monthly report shall include (a) a description of any modifications in the waste collection, treatment and disposal facilities; (b) any changes in operational procedures; (c) any other significant activities which alter the nature or frequency of the discharge; (d) any other material factors regarding the conditions of this permit and such information as the Minnesota Pollution Control Agency or Director may reasonably require of the Permittee, pursuant to Minnesota Statutes Chapters 115 and 116 as amended and Agency Regulation WPC 36 (n).

6. Definitions

a. "Monthly Average" Discharge

1. Weight Basis - The "monthly average" discharge means the total discharge by weight during a calendar month divided by the number of days in the month that the facility was operating. Where less than daily sampling is required by this permit, the monthly average discharge shall be determined by the summation of the measured daily discharges by weight divided by the number of days during the calendar month when the measurements were made.
2. Concentration Basis - The "monthly average" concentration means the arithmetic average (weighted by flow value) of all the daily determinations of concentration made during a calendar month. Daily determinations of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the daily determination of concentration shall be the arithmetic average (weighted by flow value) of all the samples collected during the calendar day.

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b. "Variable Daily Maximum" Discharge

1. Weight Basis - The "variable daily maximum" discharge means the total discharge by weight during a calendar day, based on calculations utilizing the Flow Factor, B.
2. Concentration Basis - The "variable daily maximum" concentration means maximum daily concentration, based on calculations utilizing the Flow Factor, B.

c. "Daily Maximum" Discharge

1. Weight Basis - The "daily maximum" discharge means the total discharge by weight during any calendar day.
2. Concentration Basis - The "daily maximum concentration means the daily determination of concentration for any calendar day.

- d. The "Agency" means the Minnesota Pollution Control Agency, as constituted pursuant to Minnesota Statutes, Section 116.02, Subd. 1.
- e. The "Director" means the Executive Director of the Minnesota Pollution Control Agency as described in Minnesota Statutes, Section 116.03 as amended.
- f. The "Regional Administrator" means the EPA Regional Administrator for the region in which Minnesota is located (now Region V).
- g. The "Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq.
- h. A "Composite" sample, for monitoring requirements, shall be defined as no less than a series of grab samples collected at equally spaced hourly intervals and proportioned according to flow.
- i. Pollutants, Toxic Pollutants, Other Wastes, Point Source, Disposal System, Waters of the State and other terms for the purpose of this permit are defined in Section 502 of the Act and Minnesota Statutes Section 115. 01 as amended and Agency Regulation WPC 36 (b).

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7. Test Procedures

Test procedures for the analysis of pollutants shall conform to regulations promulgated pursuant to Section 304(q) of the Act, and Minnesota Statutes, Section 115.03, Subd. 1(e)(7), as amended.

The Permittee shall periodically calibrate and perform maintenance on all monitoring and analytical instrumentation used to monitor pollutants discharged under authorization by this permit, at intervals to insure accuracy of measurements. The Permittee shall maintain written records of all such calibrations and maintenance.

8. Recording of Results

For each measurement or sample taken pursuant to the requirements of this permit, the Permittee shall record the following information:

- a. The exact place, date, and time of sampling;
- b. The dates the analyses were performed;
- c. The person who performed the analyses;
- d. The analytical techniques, procedures or methods used; and
- e. The results of such analyses.

9. Additional Monitoring by Permittee

If the Permittee monitors any pollutant at the location(s) designated herein more frequently than required by the Minnesota Pollution Control Agency or Director, the results of such monitoring shall be included in the calculation and reporting of values submitted on the designated Discharge Monitoring Report Form. Any increased monitoring frequency shall also be indicated on such designated form.

10. Recording and Records Retention

All sampling and analytical records required by the conditions of this permit shall be retained by the Permittee for a minimum of three (3) years. The Permittee shall also retain all original recordings from any continuous monitoring instrumentation, and any calibration and maintenance records, for a minimum of three (3) years. These retention periods shall be extended during the course of any legal or administrative proceedings or when so requested by the Regional Administrator, the Minnesota Pollution Control Agency or the Director.

4600520

PART II

A. MANAGEMENT REQUIREMENTS

1. Change in Discharge

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit. Any anticipated facility expansions, production increases, or process modifications which will result in new, different, or increased discharges of pollutants shall be reported by submission of a new NPDES application or, if such changes will not violate the effluent limitations specified in this permit, by notice of such changes to the Director. Following such notice, the permit may be modified to specify and limit any pollutants not previously limited.

2. Noncompliance Notification

If, for any reason, the Permittee does not comply with or will be unable to comply with any daily maximum effluent limitation specified in this permit, the Permittee shall immediately notify the Compliance and Enforcement Section by telephone (612)296-7236 and confirm in writing, within five (5) days of becoming aware of such condition. The written notification shall contain the following information:

- a. A description of the discharge and cause of noncompliance; and
- b. The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue; and steps being taken to correct, reduce, eliminate and prevent recurrence of the noncomplying discharge.

3. Unauthorized Discharges

The Permittee shall immediately notify the Compliance and Enforcement Section of any unauthorized discharge, accidental or otherwise, of oil, toxic pollutants or any other substance or material under its control which, if not recovered, may cause pollution of the waters of the state, and shall recover as rapidly and as thoroughly as possible such oil, toxic pollutant, or other substance or material and take immediately such other action as may be reasonably be required to minimize or abate pollution of waters of the state caused thereby.

4. Facilities Operation and Quality Control

All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:

- a. The Permittee shall at all times maintain in good working order and operate as efficiently as possible any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit.

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- b. The Permittee shall provide an adequate operating staff which is duly qualified under Minnesota Regulations WMOB 1 if applicable (as determined by the Director pursuant to Agency Regulation WPC 36(1)(6)(ee)) to carry out the operation, maintenance and testing functions required to insure compliance with the conditions of this permit.
- c. Maintenance of the treatment facility that results in degradation of effluent quality shall be scheduled during noncritical water quality periods and shall be carried out in a manner approved by the Director.
- d. The Director may require the Permittee to submit a maintenance plan to eliminate degradation of the effluent. The Permittee shall operate the disposal system in accordance with this plan as approved by the Director.

5. Adverse Impact

The Permittee shall take all reasonable steps to minimize any adverse impact to navigable waters resulting from noncompliance with any effluent limitations specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge. The results of such monitoring shall be submitted to the Director as required under this provision.

6. Bypassing

Any diversion from or bypass of facilities necessary to maintain compliance with the terms and conditions of this permit is prohibited, except (i) where unavoidable to prevent loss of life or severe property damage, or (ii) where excessive storm drainage or runoff would damage any facilities necessary for compliance with the effluent limitations and prohibitions of this permit. The Permittee shall promptly notify the Director, Attn: Compliance and Enforcement Section, in writing, of each such diversion or bypass.

Notification of any bypass which causes noncompliance with the daily effluent limitations shall be done in accordance with Part II, (a)(2), Noncompliance Notification.

7. Removed Substances

The Permittee shall dispose of solids, sludges, filter backwash, or other pollutants removed from or resulting from treatment or control of wastewaters in such manner as to prevent any pollutant from such materials from entering waters of the state. The Permittee in disposal of such material shall comply with all applicable water, air and solid waste Statutes and Regulations. When requested the Permittee shall submit a plan for such disposal for approval by the Director.

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8. Power Failures

In order to maintain compliance with the effluent limitations and prohibitions of this permit, the Permittee shall either:

- a. In accordance with the Schedule of Compliance contained in Part I, provide an alternative power source sufficient to operate the wastewater control facilities; or**
- b. Halt, reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of one or more of the primary sources of power to the wastewater control facilities.**

9. Construction

This permit does not authorize the construction of any treatment works associated with this discharge, unless plans and specifications for such facilities have been approved in writing by the Director prior to the start of any construction.

4600513

B. RESPONSIBILITIES

1. Right of Entry

The Permittee shall pursuant to Section 308 of the Act and Minnesota Statutes 116.091, allow the Director of the Minnesota Pollution Control Agency, the Regional Administrator, and their authorized representatives:

- a. To enter upon the Permittee's premises where a disposal system or other point source or portion thereof is located for the purpose of obtaining information, or examination of records or conducting surveys or investigations; and
- b. To bring such equipment upon the Permittee's premises as is necessary to conduct such surveys and investigations; and
- c. To examine and copy any books, paper, records or memoranda pertaining to the installation, maintenance, or operation or discharge, including but not limited to, monitoring data of the disposal system or point source or records required to be kept under the terms and conditions of this permit; and
- d. To inspect any monitoring equipment or monitoring procedures required in this permit; and
- e. To sample any discharge of pollutants.

2. Transfer of Ownership of Control

In the event of any changes in control or ownership of facilities from which the authorized discharges emanate, the Permittee shall notify the succeeding owner or controller of the existence of this permit by letter, prior to the effective date of the transfer. A copy of this letter shall be forwarded to the Regional Administrator and the Director. Any succeeding owner or controller shall also comply with the terms and conditions of this permit.

3. Availability of Reports

Except for data determined to be confidential under Section 308 of the Act, and Minnesota Statutes, Section 116.075, Subd.2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Minnesota Pollution Control Agency and the Regional Administrator. Procedures for submitting such confidential material shall be pursuant to Minnesota Regulation WPC 36(j)(2). As required by the Act, effluent data shall not be considered confidential. The Permittee shall immediately upon discovery report, in writing to the Director any errors or omissions of such record, reports, plans or other documents prepared in accordance with the terms and conditions of this permit. Knowingly making any false statement on any such report, confidential or otherwise, may result in the imposition of criminal penalties as provided for in Section 309 of the Act and Minnesota Statutes, Section 115.071 Subd.2(a).

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4. Permit Modification

After notice and opportunity for a hearing, this permit may be modified, suspended or revoked in whole or in part during its term for cause including, but not limited to, the following:

- a. Violation of any terms or conditions of this permit;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; or
- d. Agency Regulation WPC 36(s)(1)

5. Toxic Pollutants

Notwithstanding Part II, B, 4, above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act and Minnesota Statutes, Chapters 115 and 116 as amended, for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and in accordance with applicable laws and regulation.

6. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the Permittee from civil or criminal penalties for noncompliance with the terms and conditions except as otherwise provided in Part I, A, 6. Bypassing and Part I, A, 8. Power Failures.

7. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under Section 311 of the Act and Minnesota Statutes, Chapters 115 and 116 as amended.

8. Federal, State and Local Laws

Nothing in this permit shall be construed to preclude the institution of any legal or administrative proceedings or relieve the Permittee from any responsibilities, liabilities, or penalties for violation of effluent and water quality limitations not included in this permit.

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9. Property Rights

The issuance of this permit does not convey any property rights, in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any violation of Federal, State or local laws or regulations.

10. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

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